Hazel M. Houser

Petitioner * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the nonconforming use of a three-unit apartment building in a D.R. 10.5 zone in accordance with Petitioner's Exhibit 1.

The Petitioner appeared, testified and was represented by Edward C Covahey, Jr., Esquire. Also appearing on behalf of the Petition were John P Houser, Petitioner's son, and Wesley D. Paul. There were no Protestants

Testimony indicated that the subject property, known as 7289 Holabird Avenue, consists of .053 acres zoned D.R. 10.5 and is improved with a two-story dwelling. Petitioner is desirous of establishing the nonconforming use of the subject dwelling as three apartments. Testimony indicated the subject property was zoned "D" Residential in 1945 and in 1955 was zoned R.G., both classifications of which permitted apartments. Mrs Houser testified she purchased the property in 1954 at which time it was used as three apartments and that she has continued to use the property as such. Testimony indicated the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding

Wesley Paul testified in support of the Petition. Mr. Paul testified that he has known Mrs. Houser for most of his life and that he visited with her at the subject site on many occasions. Mr. Paul testified that Mrs. Houser has operated the subject property as a three-apartment dwelling unit since her purchase of same in 1954.

As with all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 2, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

The testimony clearly indicates that the subject property was developed as a three apartment dwelling sometime between 1946 and 1952. Further, the testimony established that such use was permitted under the property's previous zoning classifications of "D" Residential and R.G. in accordance with the zoning regulations in effect in both 1945 and 1955. The testimony is clear that the Petitioner has continuously used the property as a three-apartment dwelling unit since her purchase in 1954.

The second principle to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the non-conforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered non-conforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

It is clear from the testimony that the subject property has been used continuously and without interruption as a three-apartment dwelling unit since at least 1954 and that no change has occurred in said use. Further, the property's previous zoning classifications permitted such use until 1970 when the property was reclassified to D.R.10.5. Clearly, the

- 2-

use of the property as a three-apartment dwelling has been continuous and without interruption and as such, is a legal nonconforming use.

When the claimed non-conforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

> "(a) To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

> (b) Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

McKemy v. Baltimore County, Md., Supra.

Pursuant to the advertisement, posting of the property, and

public hearing on this Petition held, and for the reasons given above, the relief requested in the Petition for Special Hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this day of July, 1991 that the Petition for Special Hearing to approve the nonconforming use of the subject property as a three-apartment dwelling unit, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however to the following restrictions

which are conditions precedent to the relief granted: 1) The Petitioner is hereby made aware that proceeding at this time is at her own risk until such time as the 30-day appellate process from this Order has ex-

- 3-

pired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded and Petitioner would be required to file a new Peti-

2) On or before October 1, 1991, Petitioner shall file a new site plan prepared by a registered professional engineer which includes a detailed floor plan of the subject dwelling with the layout of each apartment clearly shown thereon.

3) Upon request and reasonable notice, Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

- 4-

CERTIFICATE OF POSTIMO

Location of property: 5/5 Hofa 617d Are., 56. 118' W/ Boyard Are

Remarks Nepostal for New Hearing do to of 7/2/11 MM

Location of Signe Facing Holobird Are, approx. 20 Fr. Youdway

Zoning Commissioner for Baltimore County

JRH:bjs

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

July 12, 1991

Edward C. Covahey, Jr., Esquire 614 Bosley Avenue Towson, Maryland 21204

RE. PETITION FOR SPECIAL HEARING S/S Holabird Avenue, 56.48' W of the c/l of Bayard Avenue (7289 Holabird Avenue) 12th Election District - 7th Councilmanic District Hazel M. Houser - Petitioner Case No. 91-380-SPH

Dear Mr. Covahey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

> Very truly yours, 4. Robert Haines ROBERT HAINES $u_{ extsf{Zoning Commissioner}}$

for Baltimore County

JRH·b]s

cc People's Counsel

mJK -3/26/91 est. time - 1hr. acail anytime

Contract Purchaser

PETITION FOR SPECIAL HEARING TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-380-5PH The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve _____ the non-conforming use of a three (3) unit apartment building in a DR 10.5 Zone for the property situate at 7289 Holabird Avenue, Baltimore,

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Legal Owner(s):

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

SE (E)

Contract Purchaser:	Legal Owner(5).	
	Hazel M. Houser	T:2
(Type or Print Name)	(Type or Print Name)	12
	Hosel Wilfon	LUN 4-1692
Signature	Signature	F F
Address	(Type or Print Name)	G.
City and State	S ⁱ gnature	
Attorney for Petitioner:		
Edward C. Covahey, Jr.	3512 Thomas Point Court	
(Type or Print Name)	Address	Phone No.
9	Abingdon, Maryland	21009
Signature	City and State	
614 Bosley Avenue Address	Name, address and phone number of legal owner, con- tract purchaser or representative to be contacted	
Towson, Maryland 21204	Edward C. Covahey, Jr.	
City and State	Name	
Attorney's Telephone No.: 828-9441	614_Bosley_AveAddress	828-9441 Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this ____, 19.91, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the day of May 1991, at 9 o'clock

(over)

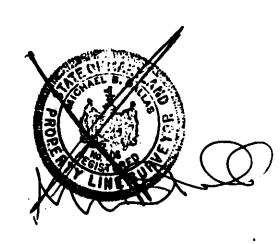
MICHAEL B. DALLAS Registered Surveyor SUITE 200 24 W. PENNSYLVANIA AVENUE TOWSON, MD. 21204

井369

ZONING DESCRIPTION 7929 Holabird Avenue 12th Election District Baltimore County, Maryland Owner; "azel M. Houser, GLB 2613/254

BEGINNING for the same on the southwest side of Helabird Avenue at a point distant North 72 degrees 20 minutes west 56.48 feet from the centerline of Bayard Avenue (50 feet wide) thence binding on said southwest side of said Holabird Avenue North 72 degrees 20 minutes west 21.00 feet to a point in line with the centerline of a party wall heretofore erected thence leaving said Holabird Avenue and running to and through said party wall South 17 degrees 40 minutes west 109.00 feet to the northeast side of a 15 foot alley thence binding on said northeast side of said alley South 72 degrees 20 minutes east 21.00 feet to a point in line with the centerline of another party wall heretofore erected thence leaving said alley and running to and through said party wall North 17 degrees 40 minutes east 109.00 feet to the place of be-

November 15, 1990



CERTIFICATO OF PUBLICATION

OFFICE OF Dundalk Eagle 4 N. Center Place

NOTICE OF NEARING

the preparty identified horses in Rose 166 of the County Office Building, I

W of oil Boyard Assess 7200 Helshird Assess

12th Election District 7th Consultancia Matriot Postionarisk Heart M. House MARKE: WEDNESDAY, WAT 20, 1981 at 940 a.S.

Posted for Secrist Hearing

on Property of Detition

1284 Holabird Aro

P. O. Box 8936 **Dundalk, Md. 21222**

April 25,

THIS IS TO CERTIFY, that the annexed advertisement of Baltimore County Zoning Office - Notice of Hearing -P.O. #0111891 - Req. #M46397 - Case #91-380-SPH 55 lines 1 \$27.50 The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for successive weeks before the 1991 ; that is to say,

the same was inserted in the issues of April 25, 1991.

Kimbel Publication, Inc.

NOTICE OF HEARING

The Zoning Commissioner of Battimore County, by sufficiency of the Zoning Act and Regulations of Battimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Toworn, Maryland 21204

Petitioner(s): Hazel M. House Hearing Date: Wednesday May 29, 1991 at 9:00 a.m.

CERTIFICATE OF PUBLICATION

OFFICE OF Dundalk Eagle

4 N. Center Place P. O. Box 8936 Dundalk, Md. 21222

April 25,

Baltimore County Zoning Office - Notice of Hearing -P.Q. #0111891 - Req. #M46397 - Case #91-380-SPH 55wainserted 27.50 The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week successive weeks before the 1991 ; that is to say, 26 th day of april the same was inserted in the issues of April 25, 1991.

THIS IS TO CERTIFY, that the annexed advertisement of

Kimbel Publication, Inc. By Kintal Olke

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive weeks, the first publication appearing on 4 25, 1991.

THE JEFFERSONIAN,

5. Zeke Olman Fublisher

Baltimore County Governmen Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

May 8, 1991

887-3353

Edward C. Covahey, Esquire 614 Bosley Avenue Towson, MD 21204

> RE: Item No. 369, Case No. 91-380-SPH Petitioner: Hazel M. Houser Petition for Special Hearing

Dear Mr. Covahey:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Zoning Plans Advisory Committee

Enclosures

cc: Ms. Hazel M. Houser 3512 Thomas Point Court Abingdon, MD 21009

Zoning Commisioner
County Office Building
111 West Chesapeake Avenue

3/26/91 PUBLIC HEARING FEES

040 -SPECIAL HEARING (OTHER) TOTAL: \$175.00

LAST NAME OF SWIER: COVAHEY Attorney

PAPEDO02:56PH03-27-91

Baltimore County Zoning Commissioner County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

Account: R-001-6150 Number

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Account: R-001-6150 Number

H9100369

Jean)4991878MICHSC **\$** : 인. Please Make Checks Payable To: Baltimore County - 11224M07-00-9

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

3512 Thomas Point Court Abingdon, Maryland 21009

Case Number: 91-380-SPH SS Holabrid Avenue, 56.48' W of c/l Bayard Avenue 7289 Holabird Avenue 12th Election District - 7th Councilmanic Petitioner(s): Hazel M. Houser HEARING: WEDNESDAY, MAY 29, 1991 at 9:00 a.m.

Dear Petitioner(s):

Please be advised that \$_____ is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

J. Robert Stainer

ZONING COMMISSIONER BALTIMORE COUNTY, MARYLAND

cc: Edward C. Covahey, Jr., Esq.

Zoning Commissioner of Baltimore County cc: Edward C. Covahey, Jr., Esq.

J. Robert Sprine.

111 West Chesapeake Avenue

Towson, MD 21204

Case Number: 91-380-SPH

Petitioner(s): Hazel M. Houser

7289 Holabird Avenue

SS Holabrid Avenue, 56.48' W of c/l Bayard Avenue

12th Election District - 7th Councilmanic

HEARING: WEDNESDAY, MAY 29, 1991 at 9:00 a.m.

April 11, 1991

Baltimore County Governm Fire Department

Baltimore County Government Zoning Commissioner

Office of Planning and Zoning

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of

Baltimore County will hold a public hearing on the property identified herein in Room 106 of the

County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Special Hearing - The non-conforming use of three (3) unit apartment building in a DR 10.5 zone.

700 East Joppa Road Suite 901 Towson, MD 21204-5500

(301) 887-4500

APRIL 9, 1991

J. Robert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building

Towson, MD 21204 HAZEL M. HOUSER RE: Property Owner:

> Location: #7289 HOLABIRD AVENUE

Item No.: 369 Zoning Agenda: APRIL 9, 1991

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy. CHAPTER 19

REVIEWER: Cutt Louis 4-9-91 Approved Continue Special Inspection Division

Noted and

Approved Continue Street Street Prevention Bureau

JK/KEK

received

Towson, MD 21204

887-3353

Your petition has been received and accepted for filing this

Baltimore County Government

Zoning Commissioner
Office of Planning and Zoning

J. Robert Sprines ZONING COMMISSIONER

Received By:

Petitioner: Hazel M. Houser Petitioner's Attorney: Edward C. Covahey

401 Bosley Avenue Suite 405

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Maryland 21204

Z.A.C. Meeting Date: April 9, 1991

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 359, 360, 368, 369, 370.

Baltimore County Government Department of Public Wo

Bureau of Traffic Engineering

April 26, 1991

Very truly yours,

Fax 887-5784

Rahee J. Famili Traffic Engineer II

RJF/lab

10th day of April, 1991.

111 West Chesapeake Avenue

Towson, MD 21204

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: April 4, 1991 Robert W. Bowling, P.E.

> Zoning Advisory Committee Meeting for April 9, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 360, 368 and 369.

For Items 215 (91-180-A) and 373, the previous County Review Group Comments still apply.

For Items 359 and 370, a County Review Group Meeting may be required for each site.

> ROBERT W. BOWLING, P.E., Chief Developers Engineering Division

RWB: в

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

111 West Chesapeake Avenue Towson, MD 21204

887-3353

May 16, 1991

Edward C. Covahey, Jr., Esq. 614 Bosley Avenue Towson, Maryland 21204

91-380**-**SPH Case Number(s): Petitioner(s): Hazel M. Houser 7289 Holabird Avenue

Dear Mr. Covahey:

Please be advised that due to scheduling conflicts beyond our control, the above matters, previously set to be heard on May 29, 1991 cannot go forward on that date.

This case has been rescheduled for JULY 2, 1991 at 10:30 a.m.

This office regrets any inconvenience caused by this change and thanks you for your cooperation and understanding.

Very truly yours,

cc. Hazel M. Houser

May 2946 91-356 Sty

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

J. Robert Haines Zoning Commissioner DATE: June 3, 1991

Pat Keller, Deputy Director Office of Planning and Zoning

SUBJECT: Leroy L. Ennis, Item No. 388
Hazel M. Houser, Item No. 369 Basso & Basso, Item No. 417 Charles A. Greaves, Item No. 421

In reference to the petitioner's request, staff offers no

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

ITEMMULT.I/ZAC1

COVAHEY & BOOZER, P. A. ATTORNEYS AT LAW 614 BOSLEY AVENUE TOWSON, MARYLAND 21204

AREA CODE 301

828-9441

BREPLY TO:

SUITE IQI

828-5525

a se

FAX 301-296-2131 ANNEX OFFICE 606 BALTIMORE AVE. TOWSON, MD. 21204 AREA CODE 301 July 18, 1991 ALSO ADMITTED TO D. C. BAR

Zoning Commissioner for Baltimore County County Office Building 111 West Chesapeake Avenue Towson, Maryland 21204

RE: HAZEL M. HOUSER, PETITIONER CASE NO.: 91-380-SPH

Dear Mr. Haines:

J. Robert Haines

EDWARD C. COVAHEY, JR.

F. VERNON BOOZER

ANTHONY J. DIPAULA

MARK S. DEVAN

THOMAS P. DORE

Your order in the above-captioned references site plan as prepared by professional engineer. At the hearing, Michael Dallas, licensed professional property land surveyor, testified and prepared the plat. Would a site plan prepared by Michael Dallas comport with your order?

Your consideration in this regard is appreciated.

very truly yours,

- Edward C. Covahey, Jr.

ECC, Jr./jab 18`jb.05

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

887-3353

July 29, 1991

Edward C. Covahey, Jr., Esquire Covahey and Boozer, P.A. 614 Bosley Avenue Towson, Maryland 21204

> RE: Hazel M. Houser, Petitioner Case No. 91-380-SPH

Dear Mr. Covahey:

111 West Chesapeake Avenue

Towson, MD 21204

Receipt of your letter dated July 18, 1991 regarding the above matter is hereby acknowledged.

I would be more than happy to accept the plan produced, in accordance with my Order, by Mr. Michael Dallas as a licensed land surveyor.

> Very truly yours, 2 Lote Attainer J. Robert Haines / Zoning Commissioner

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

887-3353

November 12, 1991

Edward C. Covahey, Jr., Esquire Covahey and Boozer, P.A 614 Bosley Avenue Towson, Maryland 21204

RE: Case Nos. C-92-1034 and 91-380 SPH 7829 Holabird Avenue 12th Election District

Dear Mr. Covahey:

111 West Chesapeake Avenue

Towson, MD 21204

With the receipt of the floor plan for 7829 Holabird Avenue prepared by Hoffman and Hoffman, Surveyors and Land Planners, which does indicate as of November 7, 1991 a three apartment dwelling, the above case records are considered to be in compliance.

If further questions should exist relative to this case, please contact this office at 887-3351.

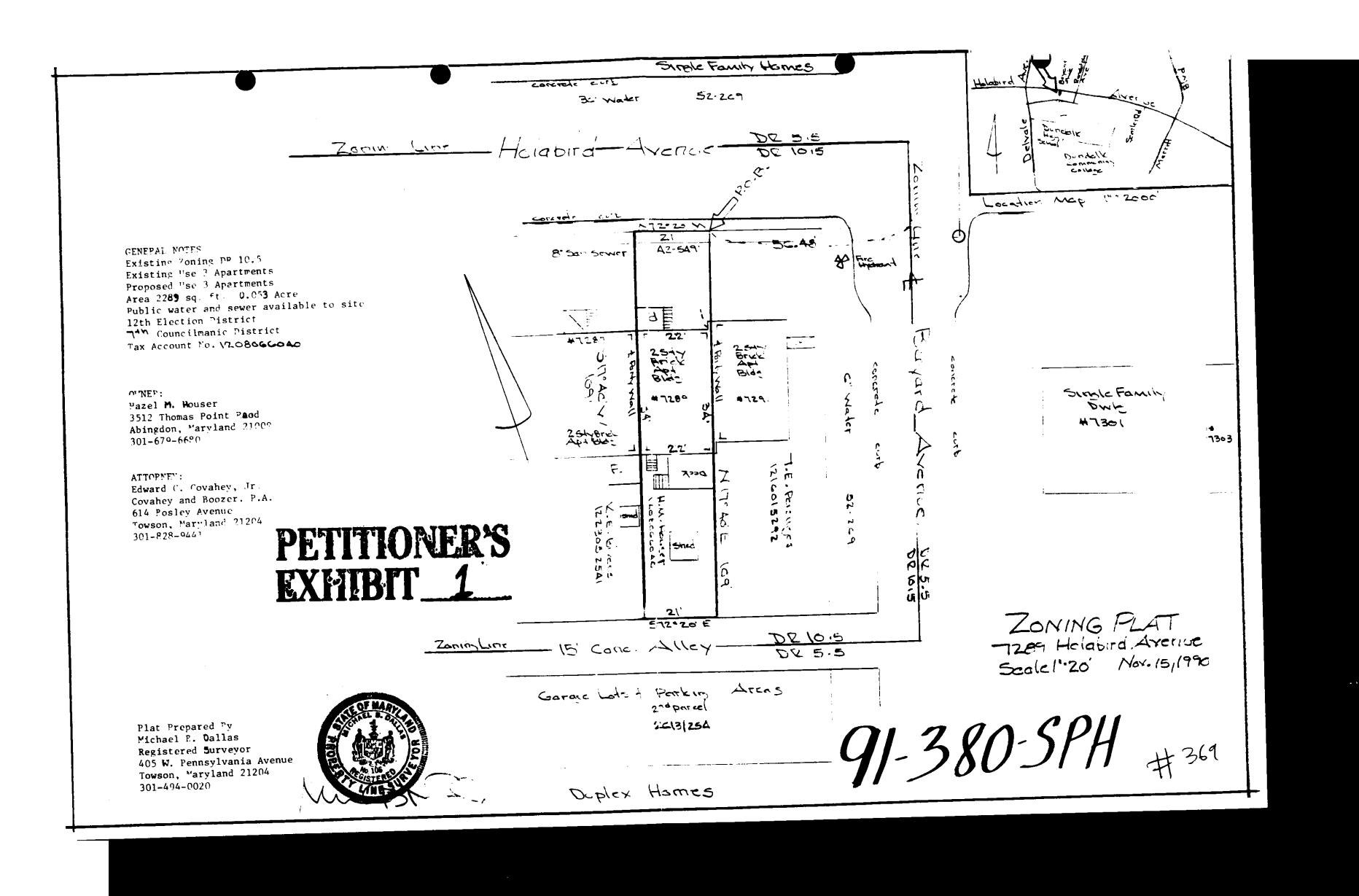
> Sincerely, Zoning Enforcement Coordinator

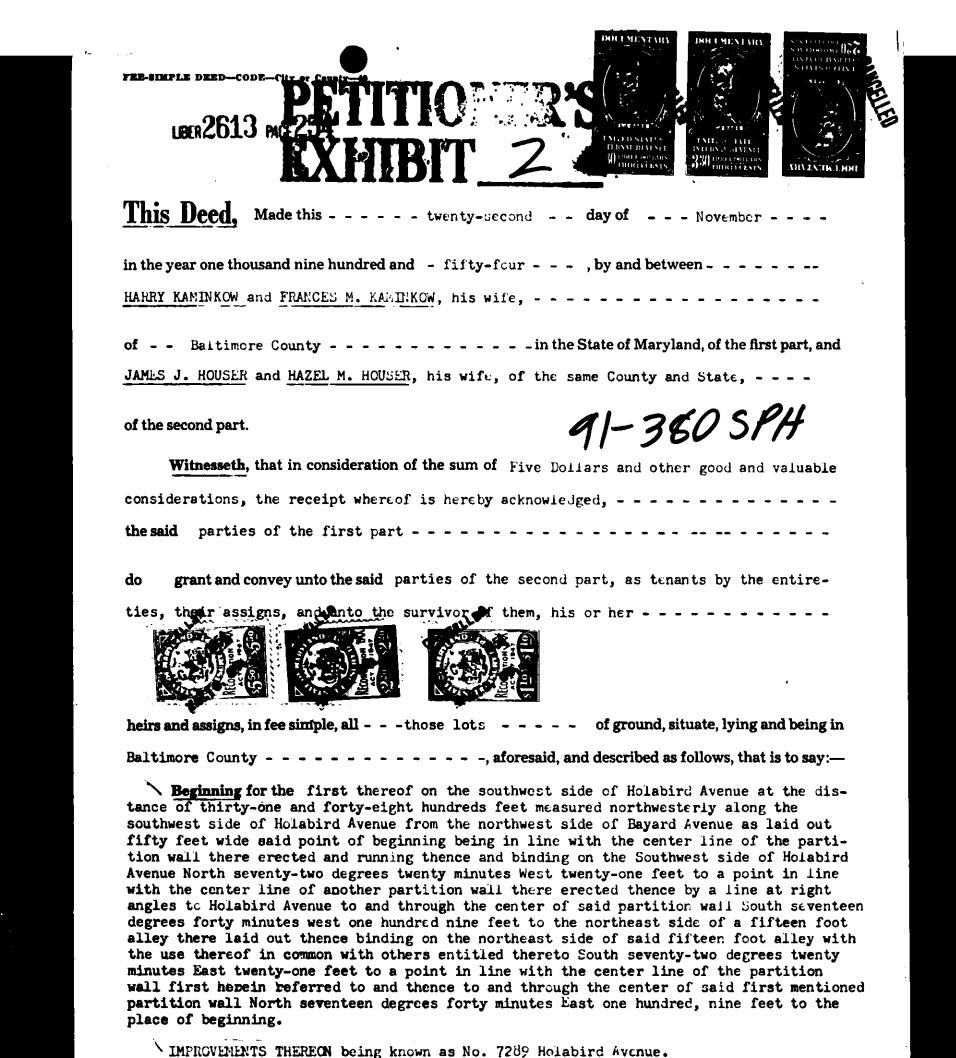
cc: VInspector Leonard Wasilewski Ms. Hazel M. Houser

HOFFMAN and HOFFMAN SURVEYORS . LAND PLANNERS 5502 STONINGTON AVENUE + BALTIMORE, MARYLAND 21207 PHONE: (301) 448-0181 THOMAS M. HOFFMAN Professional Land Surveyor #6136 THOMAS M. HOFFMAN, JR Property Line Surveyor #267 DATE: Nov. 12, 1991 ZONING FANFORCEMENT OFFICE Nº 7289 HOLABIRD ALE 4 COPIES - FLOOR PLAN

■ ¶ 91-3605PH PETITIONER(S) SIGN-IN SHEET PLEASE PRINT CLEARLY HALE HASEL HOUSER 3512 Thomas pant Court Anhone 21009

C921034A/txtls





BEGINNING for the second thereof on the Southwest side of an alley there laid out fifteen feet wide parallel with the Southwest side of Holabird Avenue and which Southwest side of said alley is distant one-hundred twenty-four feet southwesterly from the southwest side of Holamird Avenue measured at right angles therewith at a point distant thirty-one and forty-eight hundreds feet measured northwesterly along the southwest side of said alley from the northwest side of Bayard Avenue as laid out fifty feet wide and running thence and binding on the southwest side of said alley with the use thereof in common with others entitled thereto northseventy-two degrees twenty minutes west twenty-one feet thence by a line at right angles with nolabird Avenue South seventeen degrees forty minutes west twenty-six feet thence parallel with Holabird Avenue South seventy-two degrees twenty- minutes east twenty-one feet and thence by a line at right angles with Holabird Avenue north seventeen degrees forty minutes east twenty-six feet to the place of beginning.

BEING the same two lots of ground which by deed dated Spptember 6, 1946 and recorded among the Land Records of Baltimore County in Liber R.J.S. No. 1499 folio 187 were granted and conveyed by Marshall Construction Corporation unto the within named Grantors, in fee

58,000

